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A CATECHISM
OF
MILITARY LAW.

231. c.

236.



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BEING
QUESTIONS AND ANSWERS
ON THE ARMY DISCIPLINE ACT, 1879.

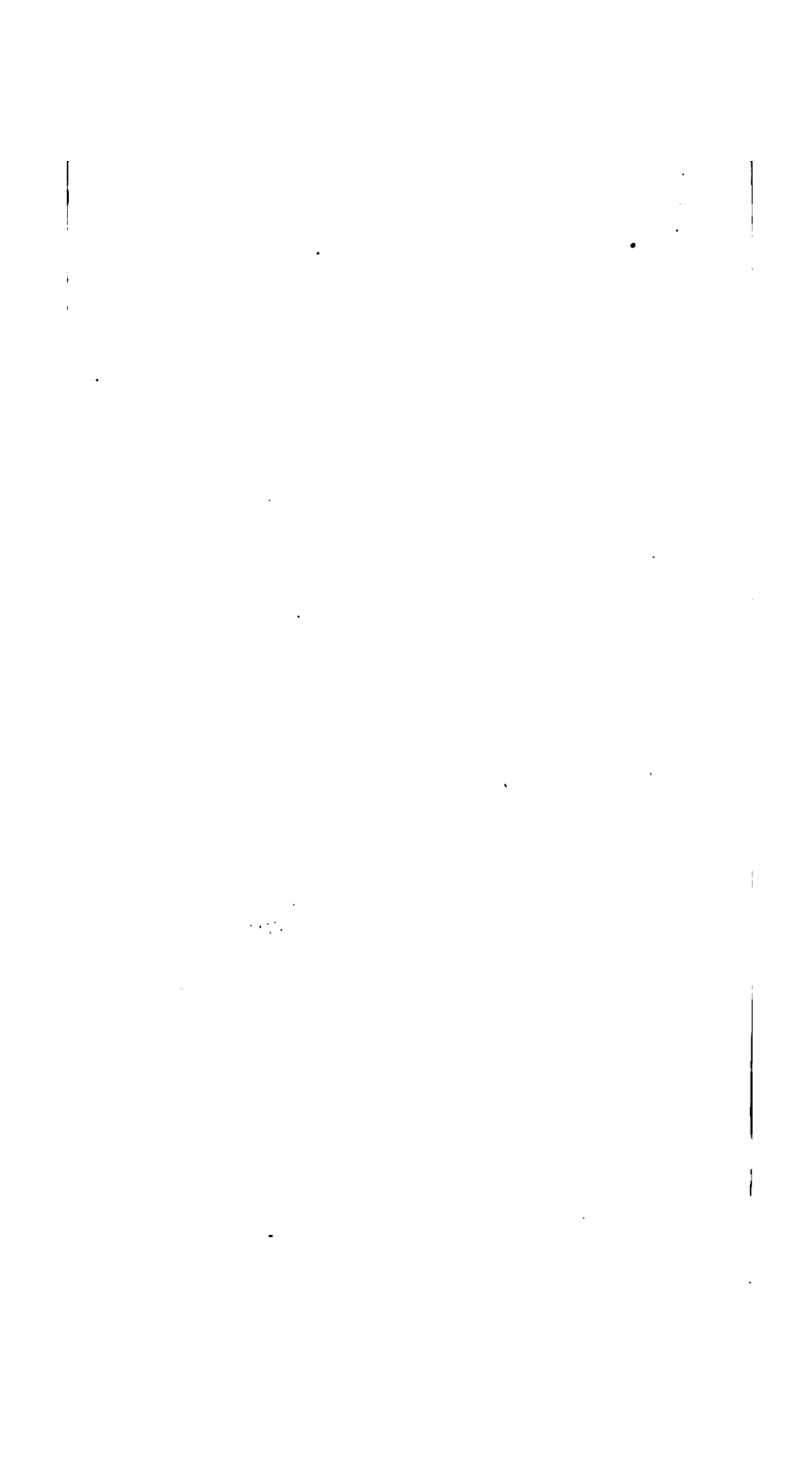
*For the Use of Candidates for Military Examinations,
Members of Boards, &c.*

BY
AN ADJUTANT.



London:
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1879.

231. c. 236



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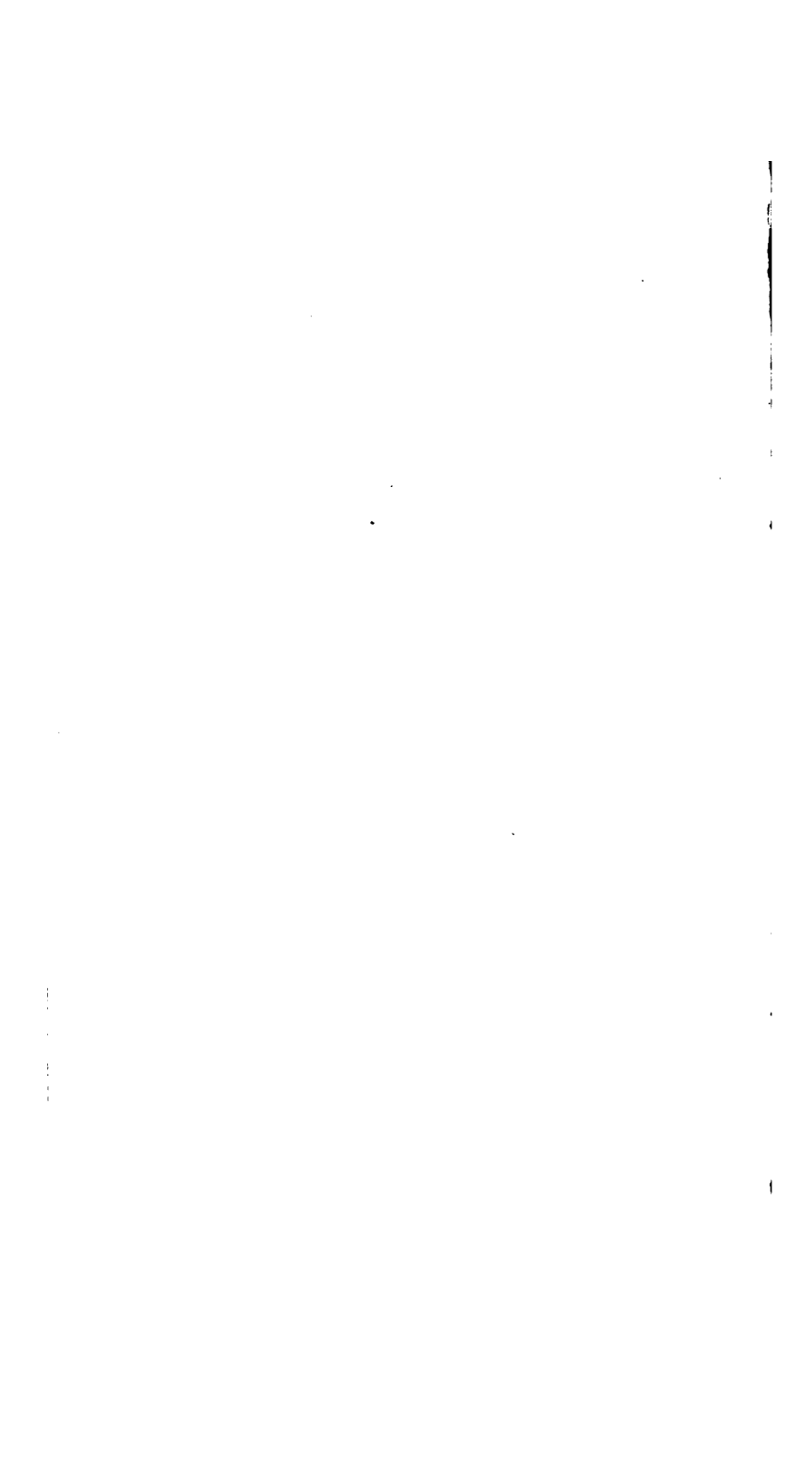
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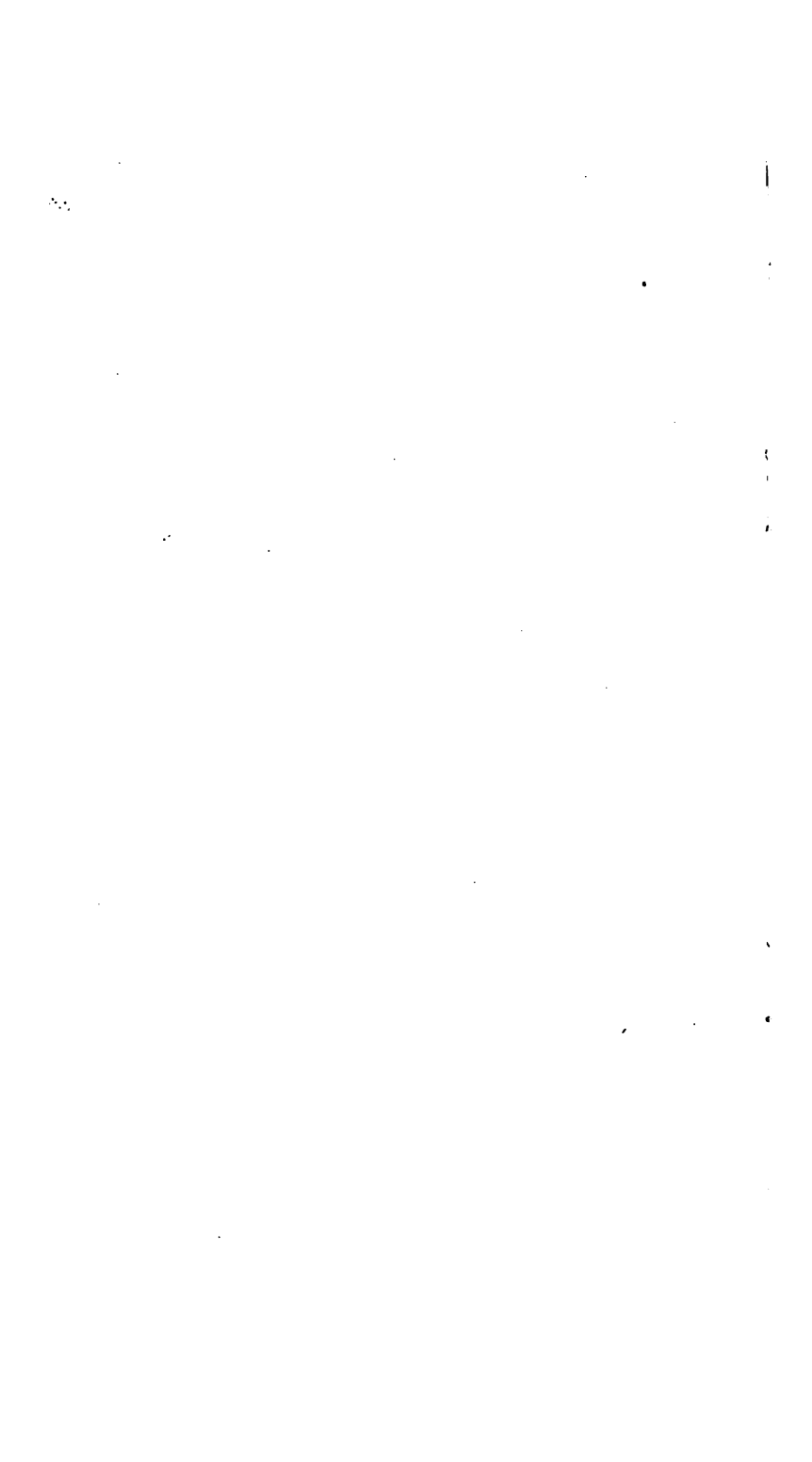
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N.B.—The figures at the end of the Questions refer to the Sections of the Army Discipline Act, 1879 from which the Answers are taken.



CATECHISM OF MILITARY LAW.

POWERS OF COMMANDING OFFICER.

Q. 1.—Must a commanding officer send an offender to court-martial who is charged with an offence cognizable by court-martial? (46.)

A.—Not if he, in his discretion, thinks the charge ought not to be proceeded with.

Q. 2.—What amount of imprisonment may a commanding officer award summarily? (46a.)

A.—Seven days, with or without hard labour.

Q. 3.—Is there any offence for which he may award more than seven days' imprisonment? (46.)

A.—Yes, *absence without leave*; when he may award twenty-one days' imprisonment as a maximum.

Q. 4.—Is the amount of imprisonment for absence without leave discretionary up to twenty-one days? (46.)

A.—Not entirely. If the award exceeds seven days, it must not exceed the number of days for which the offender was absent.

Q. 5.—Has the offender any privilege when he is awarded more than seven days' imprisonment? (46.)

A.—Yes, he may demand that the evidence against him be taken on oath as before a court-martial.

Q. 6.—How may a commanding officer punish the offence of drunkenness? (46.)

A.—He may order the offender to pay a fine not exceeding ten shillings, either in addition to or without imprisonment.

Q. 7.—Under what circumstances must the commanding officer deal summarily with the offence of drunkenness? (46.)

A.—In all cases, except where the soldier was drunk after having been warned for duty, or except where the soldier has been drunk on not less than four occasions in the preceding twelve months. Also, except in the case of a non-commissioned officer charged with drunkenness.

Q. 8.—Has a commanding officer any power to order deductions from the pay of an offender? (46) (134.)

A.—Yes, for absence without leave, loss or damage of equipment, &c., and fines for drunkenness.

Q. 9.—What deductions from a soldier's pay may be awarded for absence without leave? (134.)

A.—All his ordinary pay for every day of such absence except one penny per diem.

Q. 10.—Under what circumstances may a soldier appeal to court-martial from the award of his commanding officer? (46.)

A.—If the award is imprisonment, fine, or any deduction from his ordinary pay.

Q. 11.—Can an offender be tried by court-martial for an offence which has been dealt with summarily? (46.)

A.—No; nor is he liable to be punished by his commanding officer for any offence for which he has been tried, whether he was acquitted or convicted.

Q. 12.—May a commanding officer award minor punishments? (46.)

A. Yes, but a minor punishment must not be added to an award of imprisonment which exceeds seven days.

ARREST AND TRIAL.

Q. 13.—How long may an offender be detained “awaiting trial” when not on active service? (45—1.)

A.—For eight days. If, however, a court cannot be assembled before the termination of eight days, a special report must be made by his commanding officer of the necessity for further delay; and a similar report every eight days until the court is assembled or the offender released.

Q. 14.—In what cases may a junior order a senior into arrest? (45—3.)

A.—An officer may order into arrest any officer, though senior to himself, who may be engaged in a quarrel, fray, or disorder.

Q. 15.—What is the duty of an officer or non-commissioned officer who gives a person into military custody? (45—4.)

A.—To deliver to the officer, or non-commissioned officer into whose custody the person was given, a written charge against the offender within forty-eight hours after his arrest.

COURTS-MARTIAL.

Q. 16.—What are the different degrees of court-martial?

- A.—(1) Regimental court-martial.
(2) District court-martial.
(3) Field general court-martial.
(4) General court-martial.

REGIMENTAL COURT-MARTIAL.

Q. 17.—What officers have power to convene a regimental court-martial? (47—1.)

A.—(1) Any officer authorized to convene general or district courts-martial.

(2) Any commanding officer of a rank not below the rank of captain.

(3) On board a ship not commissioned by Her Majesty, a commanding officer of *any* rank.

Q. 18.—Is a warrant necessary for the convening of a regimental court-martial? (47—1.)

A.—No. The Army Discipline and Regulation Act, 1879, is sufficient authority.

Q. 19.—Of how many officers must a regimental court-martial be composed? (47—2) and (50—1.)

A.—Of not less than five officers, who may belong to the same or different corps.

Q. 20.—If five officers are not available? (47—2.)

A.—Of not less than three; but in this case the convening officer must record the fact in the order convening court.

Q. 21.—How is the president of a regimental court-martial appointed? (47—3.)

A.—By order of the convening officer.

Q. 22.—What should be the rank of the president of a regimental court-martial? (47—4.)

A.—He must not be under the rank of captain except (1) where the court-martial is held on the line of march, or

(2) On board a ship not commissioned by Her Majesty, or

- (3) If a captain is not available, in which case the convening officer must record the fact in the order convening the court.

Q. 23.—What are the limits of the powers of a regimental court-martial? (47—5.)

A.—(1) It cannot try an officer.

(2) It cannot award death, penal servitude, or discharge with ignominy.

(3) It cannot award more than forty-two days' imprisonment.

Q. 24.—By whom alone can a general court-martial be convened? (48—1.)

A.—By Her Majesty, or by an officer deriving authority to do so from Her Majesty.

Q. 25.—By whom can a district court-martial be convened? (48—2.)

A.—By an officer authorized to convene general courts-martial, or by an officer deriving authority to do so from an officer authorized to convene general courts-martial.

Q. 26.—By whom may the president of a general or district court-martial be appointed? (48—8.)

A.—By order of the authority convening the court.

Q. 27.—What should be the rank of the president of a general or district court-martial? (49—8.)

A.—He should not be under the rank of field officer. When, however, necessity compels the appointment of an officer of lower rank, the fact should be stated in the order convening the court.

Q. 28.—What are the limitations of the powers of a district court-martial? (48—5.)

A.—A district court-martial may not try an officer, nor award the punishment of death or penal servitude.

Q. 29.—What is the limit of imprisonment that may be awarded by a general or district court-martial? (44—c.)

A.—Two years with or without hard labour.

FIELD GENERAL COURT-MARTIAL.

Q. 30.—What is a field general court-martial, and by whom may it be convened? (49.)

A.—A court-martial convened in any country beyond the seas, for the trial of offences against the property or person of inhabitants or residents of that country, which cannot practicably be tried by an ordinary general court-martial. It may be convened by the officer in command of the detachment or portion of troops to which the offender belongs, although he may not be authorized to convene any other kind of court-martial.

Q. 31.—Of how many members must it consist? (49—1.)

A.—It shall not consist of less than three members.

Q. 32.—May the convening officer preside? (49—2.)

A.—Yes; but he should only do so if it be not practicable to appoint another officer. The president should, if practicable in the opinion of the convening officer, be not below the rank of captain.

Q. 33.—What are the limits of sentence of a field general court-martial? (49—2.)

A.—The same as those of a general court-martial.

Q. 34.—By whom may the finding and sentence of a field general court-martial be confirmed? (54—d.)

A.—By an officer authorized to confirm the findings

and sentences of general courts-martial held in the force of which the detachment under the convening officer of the field general court-martial forms a part.

GENERAL COURT-MARTIAL.

Q. 35.—What should be the composition of a general court-martial ? (48—3-6.)

A.—Not less than nine officers ; unless in the opinion of the convening officer that number is not available, when it may consist of not less than five officers. Each of the members must have held a commission during the three years preceding the day of assembly of the court-martial ; and for the trial of a field officer none of the members must be below the rank of captain.

DISTRICT COURT-MARTIAL.

Q. 36.—What should be the composition of a district court-martial ? (48—4.)

A.—Not less than seven officers—except at certain foreign stations where, in the opinion of the officer convening the court, it may be impracticable to assemble that number, when it may be reduced to five, or even to three ; but in these cases the opinion of the convening officer is to be expressed in the order convening the court.

Q. 37.—What regulations should be observed with regard to the members of a court-martial ?

A.—They are to behave with decency, to take their seats according to their rank, and not to quit them without permission of the president. In taking the votes of the court the vote of the youngest member shall be taken first. The president is responsible for

the orderly character of the proceedings, and will clear the court on any discussion.

Q. 38.—What is to be done in the case of an equality of votes ? (53.)

A.—In the case of an equality of votes on the finding, the prisoner shall be deemed to be acquitted. In the case of an equality of votes on the sentence or on any circumstance except the finding, the president shall have a second or casting vote.

Q. 39.—Is any officer disqualified from sitting on a court-martial ?

A.—Yes, if he is not subject to military law—as, for instance, when on half-pay.

Q. 40.—Of what rank should the president of a general court-martial be ?

A.—Either a general or colonel, if such be available.

Q. 41.—What general principle should be attended to in nominating the members of a court-martial upon an officer ?

A.—That they should be as far as possible of equal or superior rank to the prisoner. On the trial of a subaltern it is considered that two officers of that rank are a sufficient proportion to be detailed as members of the court.

Q. 42.—By whom should the oath be administered to the members of a court-martial ?

A.—By the officiating judge advocate, if there be one ; otherwise, by the president to the other members, and afterwards by any sworn member to the president.

Q. 43.—Who should administer the oath to the judge advocate ?

A.—The president, or some sworn member of the court authorized by the president.

Q. 44.—What are the powers and duties of an officiating judge advocate?

A.—Whether consulted or not, he will give his advice on any matter before the court. He is responsible for the due formality and legality of the proceedings. His opinion on any point of law or procedure is to be accepted by the court as conclusive. He will sum up the proceedings before the court is cleared for its finding, and will be responsible for a proper record of the proceedings. While taking care that all legal details are strictly observed, he will maintain an entirely impartial position.

Q. 45.—If a prisoner refuses to plead, what plea is to be recorded on his behalf?

A.—Not guilty.

Q. 46.—Is the investigation to proceed if the prisoner pleads "guilty"?

A.—Yes, in order that the confirming authority may be put in possession of the circumstances of the case.

Q. 47.—How is the oath to be administered to the members of the court? (52.)

A.—By the president to every individual member of the court, addressing him by name.

Q. 48.—What course is to be adopted if the prisoner should object to the president or any particular officer on the court-martial?

A.—The objection shall be submitted to the other officers forming the court, and if allowed by one-third or more of them, shall be considered valid, and a fresh officer shall be appointed in the case of the president;

but in the case of any other officer, the decision shall be ruled by a majority of votes. If the votes are equal the objection shall be allowed.

Q. 49.—What course is to be adopted when more than one prisoner is to be tried by the same court-martial separately?

A.—The court is to be re-sworn at the commencement of each trial, and the proceedings of each trial are to be conducted and recorded separately.

Q. 50.—How are soldiers to be arraigned who hold acting rank, and who hold appointments?

A.—A soldier holding acting rank is to be arraigned in his acting rank. A soldier holding an appointment is to be arraigned in his army rank, but his appointment is to be designated.

Q. 51.—Should the prisoner be furnished with a copy of his charge?

A.—Yes, his commanding officer is held responsible that he is furnished with a copy of the charges preferred against him by the adjutant or a commissioned officer at least twenty-four hours before the court is to assemble, unless the exigencies of the service render this impossible.

Q. 52.—If the prisoner is unable to read the copy of the charges preferred against him, what should be done?

A.—The charges are to be read to him, and if necessary explained to him, by the person who warns him for trial. At the same time a list of all the witnesses for the prosecution is to be given to the prisoner.

Q. 53.—Between what hours may trials be held?

A.—Between 8 A.M. and 4 P.M.

Q. 54.—Are there any exceptions to this rule?

A.—Yes, a court may continue a trial beyond 4 P.M. if found necessary, recording in the proceedings their reason for doing so. Also, in cases requiring an immediate example, or when the general or other officer commanding the troops shall certify under his hand that it is expedient for the public service, trials may be held at any hour.

Q. 55.—If the trial cannot be continued on account of the illness of the prisoner before the finding, what is to be done? (53.)

A.—The court-martial shall be dissolved, and the prisoner may be tried again.

Q. 56.—How often may the confirming authority send back finding or sentence for revision? (54.)

A.—Only once.

Q. 57.—When the finding or sentence is sent back for revision, may fresh evidence be adduced? (54.)

A.—No; and in no case shall the sentence awarded be increased.

Q. 58.—How is a finding of acquittal on all the charges to be pronounced?

A.—At once, in open court, and the prisoner shall be discharged.

Q. 59.—Is a finding of acquittal liable to revision?

A.—No.

Q. 60.—What regulations should be observed in framing charges?

A.—(1) The words of the Act must be used.

(2) The charge must be specific in names, dates, and places.

(3) In the case of a soldier, the prisoner's regimental number is to be inserted.

(4) The value of loss or damage must be stated in the charge; unless it refers to regimental articles, the prices of which are fixed by regulation, in which case the value is not to be stated in the charge.

(5) In the case of loss or damage to great-coats or articles the regulation value of which depends upon the length of time in wear, the time in wear must be proved by evidence.

Q. 61.—May any number of prisoners be tried together for an offence committed collectively?

A.—Yes; but the plea, defence, finding, and sentence must be recorded separately.

Q. 62.—What is the greatest number of lashes that may be inflicted? (44—5.)

A.—Twenty-five.

Q. 63.—Is a non-commissioned officer liable to corporal punishment? (44—5.)

A.—No; and if he be reduced to the ranks, he is not liable to corporal punishment for any offence committed while he was a non-commissioned officer.

Q. 64.—Into what punishment may a sentence of corporal punishment be commuted? (44—6) and (56.)

A.—Into imprisonment with or without hard labour for a period not exceeding forty-two days.

Q. 65.—What other punishments, besides those immediately affecting his person, may an offender convicted by court-martial be subject to? (44—7.)

A.—Forfeiture of deferred pay, service towards pension, military decoration, or military reward, in addition to or without any other punishment. Also any authorized deduction from his ordinary pay.

Q. 66.—To what extent may sentences of imprisonment be cumulative? (67.)

A.—For not more than two consecutive years, whether under one or more sentences.

Q. 67.—Where a sentence of corporal punishment is awarded to a prisoner under sentence of imprisonment, and the corporal punishment is commuted to imprisonment, how may it be inflicted? (67.)

A.—It may be held over to commence at the termination of the former sentence, subject to the limitation of a total of two years' imprisonment.

Q. 68.—What is the limit of a sentence of penal servitude? (44.)

A.—It must be not less than five years.

Q. 69.—What sentences may be inflicted upon officer and soldier alike? (44.)

A.—Death, penal servitude, imprisonment with or without hard labour, forfeiture of rank.

Q. 70.—What sentences may be inflicted on officers only? (44.)

A.—Cashiering, dismissal, and reprimand.

Q. 71.—What sentences may be inflicted on soldiers only? (44.)

A.—Corporal punishment (while on active service only), discharge with ignominy, fines, and stoppages, and forfeitures of rewards or service.

Q. 72.—What preliminary sentence is necessary before an officer is sentenced to penal servitude? (44—2.)

A.—He must be sentenced to be cashiered.

Q. 73.—May an officer be sentenced to any additional punishment when awarded forfeiture of rank? (44—3.)

A.—Yes; reprimand, or severe reprimand.

Q. 74.—May a soldier be sentenced to be discharged with ignominy in addition to a sentence of imprisonment, &c. ? (44—4.)

A.—Yes.

Q. 75.—Should a court-martial sentence a non-commissioned officer to be reprimanded ?

A.—No ; such a sentence is applicable only to commissioned officers.

Q. 76.—May a non-commissioned officer be reduced by court-martial to a lower grade ?

A.—Yes, the grade being mentioned in the sentence.

Q. 77.—In what manner may contempt of court be treated if it causes any interruption or disturbance in the proceedings of the court ? (28—123.)

A.—If the person be subject to military law, he may be tried by court-martial for the offence ; or if he be subject to military law in any other capacity than as a prisoner, he may be committed by the president to prison, with or without hard labour, for twenty-one days. If a civilian, he may be prosecuted for the offence in a civil court.

Q. 78.—If a prisoner, charged with an offence of which there may be different degrees, is acquitted of the graver degree, is it permissible to convict him of a lesser degree of the same offence ?

A.—Yes ; for instance, a prisoner charged with stealing may be found guilty of fraudulently mis-applying ; a prisoner charged with desertion may be found guilty of attempting to desert, &c., &c.

Q. 79.—May an officer or soldier be charged with “conduct to the prejudice of good order and military discipline” ?

A.—Yes, provided that his offence is not one for which special provision is made in the Army Discipline Act.

Q. 80.—If a sentence be sent back for revision and is revised, should the term of imprisonment or penal servitude be reckoned from the date on which the original sentence was signed, or from that on which the revised sentence was signed? (67.)

A.—Whether the sentence has been revised or not the term of imprisonment or penal servitude is to be reckoned to commence on the day on which the original sentence and proceedings were signed by the president of the court-martial.

Q. 81.—What steps are to be taken when a soldier is absent without leave from duty for twenty-one days? (70.)

A.—A court of inquiry is to be assembled to take evidence on oath relative to the soldier's absence and deficiencies of kit; and if the court shall declare such absence to be illegal, a record of this declaration shall be made in the regimental books.

Q. 82.—If the soldier should not afterwards surrender or be apprehended, what would be the value of the declaration of the court of inquiry? (70.)

A.—It would have the legal effect of a conviction by court-martial for desertion.

Q. 83.—What course is to be adopted when a soldier confesses to desertion or fraudulent enlistment? (71.)

A.—If he signs a confession to that effect, the Commander-in-Chief may direct that instead of being tried by court-martial he may suffer the same forfeitures, &c., as if he had been convicted by court-martial.

Q. 84.—What is to be done if evidence cannot be adduced of the truth or falsehood of such confession? (71.)

A.—A record of the confession is to be made in the regimental books, and the soldier is to perform his duties as usual until legal corroboration can be obtained.

Q. 85.—Into what two classes are “persons subject to military law” divided? (168 and 169.)

A.—Officers and soldiers.

Q. 86.—What persons are subject to military law as officers? (168.)

A.—Officers of the regular forces on full pay; officers who are members of the permanent staffs of the auxiliary forces; officers of the militia; officers of yeomanry or volunteers when in actual command of men who are subject to military law, or when their corps is on actual military service; and certain other persons who are employed on the footing of officers.

Q. 87.—What persons are subject to military law as soldiers?

A.—All soldiers of the regular forces; the permanent staff of the auxiliary forces; all non-commissioned officers and men of the army and militia reserves when called out; all non-commissioned officers and men of the auxiliary forces when called out; and the camp followers of an army on active service beyond the seas.

Q. 88.—May a person subject to military law be tried more than once for the same offence? (150.)

A.—No; whether he has been acquitted or convicted, he shall not be liable to be tried again by court-martial in respect of that offence.

Q. 89.—If a person subject to military law commits an offence, but is not apprehended until he has ceased to be subject to military law, is he liable to punishment under military law? (151.)

A.—Yes, he may be taken into and kept in military custody, and tried or punished as if he were subject to military law, provided three months have not elapsed since he was subject to military law.

Q. 90.—Is there any exception to this limit of three months?

A.—Yes, for the offences of mutiny, desertion, or fraudulent enlistment, which may be tried at any time after apprehension.

Q. 91.—If a person subject to military law is undergoing a sentence of imprisonment, and he ceases to be subject to military law during the term of his sentence, is his sentence to be completed? (151.)

A. Yes, he may be kept, removed, imprisoned, and punished as if he continued subject to military law.

Q. 92.—Is there any limitation to the length of time after the offence, in which a person may be punished by court-martial? (154.)

A.—Yes, he shall not be punished for any offence, excepting mutiny, desertion, or fraudulent enlistment, which was committed more than three years before the date at which his trial begins.

Q. 93.—Is there any further exception to the above?

A.—Yes, a soldier who has served continuously in an exemplary manner three years shall not be tried for desertion (excepting desertion on active service) committed before the commencement of those three

years. Neither shall he be tried for fraudulent enlistment under the same circumstances, but he shall forfeit all service prior to such enlistment, and his last attestation shall be held valid.

Q. 94.—When a person subject to military law has been acquitted or convicted of an offence by court-martial, is he liable to be tried again for the same offence? (150) and (155.)

A.—Not by court-martial; but he may be tried by a civil court for the same offence. In awarding sentence, however, the civil court will have regard to the military punishment he may have already undergone.

Q. 95.—When a person subject to military law has been acquitted or convicted of an offence by a civil court, is he liable to trial for that offence by court-martial? (155-6.)

A.—No.

Q. 96.—Is there any gradation of punishments for the offence of desertion? (12.)

A.—Yes. If committed on active service the offender is liable to death; if not on active service, he is liable to imprisonment for the first offence, and for the second, or any subsequent offence, to penal servitude.

Q. 97.—Must the punishment laid down in the scale of punishments for various offences be invariably awarded on conviction? (44—1.)

A.—No. The punishment named is the maximum, and any punishment lower in the scale may be awarded at the discretion of the tribunal.

Q. 98.—What is the limit of a soldier's first or original enlistment? (73.)

A.—Twelve years, or for such *less* period as may from time to time be fixed by Her Majesty.

Q. 99.—How much of this term is to be in army service, and how much in the reserves? (74.)

A.—The whole may be in army service; or such portion of it as shall from time to time be fixed by a Secretary of State, and specified in the attestation paper—the residue of the term in the reserve.

Q. 100.—From what date does the service of a soldier of the regular forces reckon? (76.)

A.—From the date of his attestation.

Q. 101.—Under what circumstances does a soldier forfeit his service? (76.)

A.—If he is found guilty of desertion or fraudulent enlistment, the whole of his prior service shall be forfeited.

Q. 102.—What is the purport of the notice which should be given to a recruit? (77.)

A.—It sets forth the general requirements of attestation and conditions of the contract to be entered into by the recruit, and directs him to appear before a justice at a given time and place.

Q. 103.—What is incumbent on the justice before whom he appears? (77.)

A.—He should ask the recruit whether he assents to be enlisted, and should not enlist him if he appears to be under the influence of liquor. He should then caution him as to the punishment he will be liable to if he makes any false answer to the questions on the attestation paper, which should then be read and explained to him. He will then require him to make and sign the declaration at the end of the questions,

and will then administer to him the oath of allegiance, attesting the document by his own signature.

Q. 104.—At what stage in the proceedings is the recruit to be deemed a soldier in the regular forces ?

A.—Upon signing the declaration and taking the oath.

Q. 105.—Within what time may a recruit claim his discharge, and for what sum ? (78.)

A.—He may claim his discharge for a sum not exceeding ten pounds, within three months after the date of his attestation, provided that the reserves are not at that time called out on army service.

Q. 106.—May a recruit be enlisted for any particular corps ? (79.)

A.—Yes, by such regulations as may from time to time be issued ; but in the absence of any such regulations he must be enlisted for general service.

Q. 107.—Can a soldier be transferred from one corps to another at his own request ? (80.)

A.—Yes, by order of the competent military authority.

Q. 108.—Are there any circumstances under which such transfer may be made as a punishment ?

A.—Yes ; where a soldier has been guilty of desertion, or fraudulent enlistment, or has been sentenced by court-martial to not less than six months' imprisonment, he may be liable, wholly or partly in commutation of other punishment, to general service ; and be transferred from time to time to such corps as the competent military authority may order.

Q. 109.—May the term of a soldier's service be prolonged beyond twelve years ?

A.—Yes. On the recommendation of his commanding officer, and approval of the competent military authority, he may be re-engaged for such time as will make up twenty-one years of continuous service.

Q. 110.—May it be still further prolonged?

A.—Yes, under certain circumstances.

Q. 111.—Can he claim his discharge at any particular period? (82.)

A.—If he continues to serve after the completion of twenty-one years, he can claim his discharge at the expiration of any period of three months from the date on which he gives notice to his commanding officer of his wish to be discharged.

Q. 112.—What provision is made by the Act for the prolongation of a soldier's service in cases of urgent necessity? (83.)

A.—When a state of war exists, or when the soldier is on service beyond the seas, or when the reserves are called out, the soldier may be detained, for a period not exceeding twelve months, beyond the time at which he would otherwise be entitled to his discharge.

Q. 113.—Under what circumstances may the reserves be called out? (84.)

A.—In case of imminent national danger or great emergency.

Q. 114.—Under what circumstances may a soldier be transferred to the reserve forces before the completion of his term of army service? (85.)

A.—When he has been invalided home from abroad; when his regiment is ordered abroad and he is found

medically unfit to proceed abroad, or is within two years of the end of his army service.

Q. 115.—When may a soldier claim to enter the reserves? (86.)

A.—On the completion of his period of army service if it be shorter than the term of his original enlistment.

Q. 116.—Under what circumstances may a soldier be discharged from the regular forces? (88.)

A.—Only by sentence of court-martial, with ignominy, or by order of the competent military authority, or by authority direct from Her Majesty.

Q. 117.—Is he entitled to any certificate on discharge? (88.)

A.—Yes, and it shall state his service, conduct, character, and cause of discharge.

Q. 118.—May an officer who is a Justice of the Peace attest soldiers for service? (89.)

A.—Not while he is subject to military law, except officers of militia while the regiments to which they belong are disembodied.

Q. 119.—When a soldier is guilty of fraudulent enlistment, is he to be discharged after having been punished? (96.)

A.—No; he may be compelled to serve either on the terms of his attestation when he fraudulently enlisted, or on the terms of any prior attestation or enrolment.

Q. 120.—If an illegality is discovered in a soldier's enlistment, attestation, or re-engagement, is he to be at once discharged? (97.)

A.—No. If he has received pay as a soldier of the regular forces for three months before the illegality is

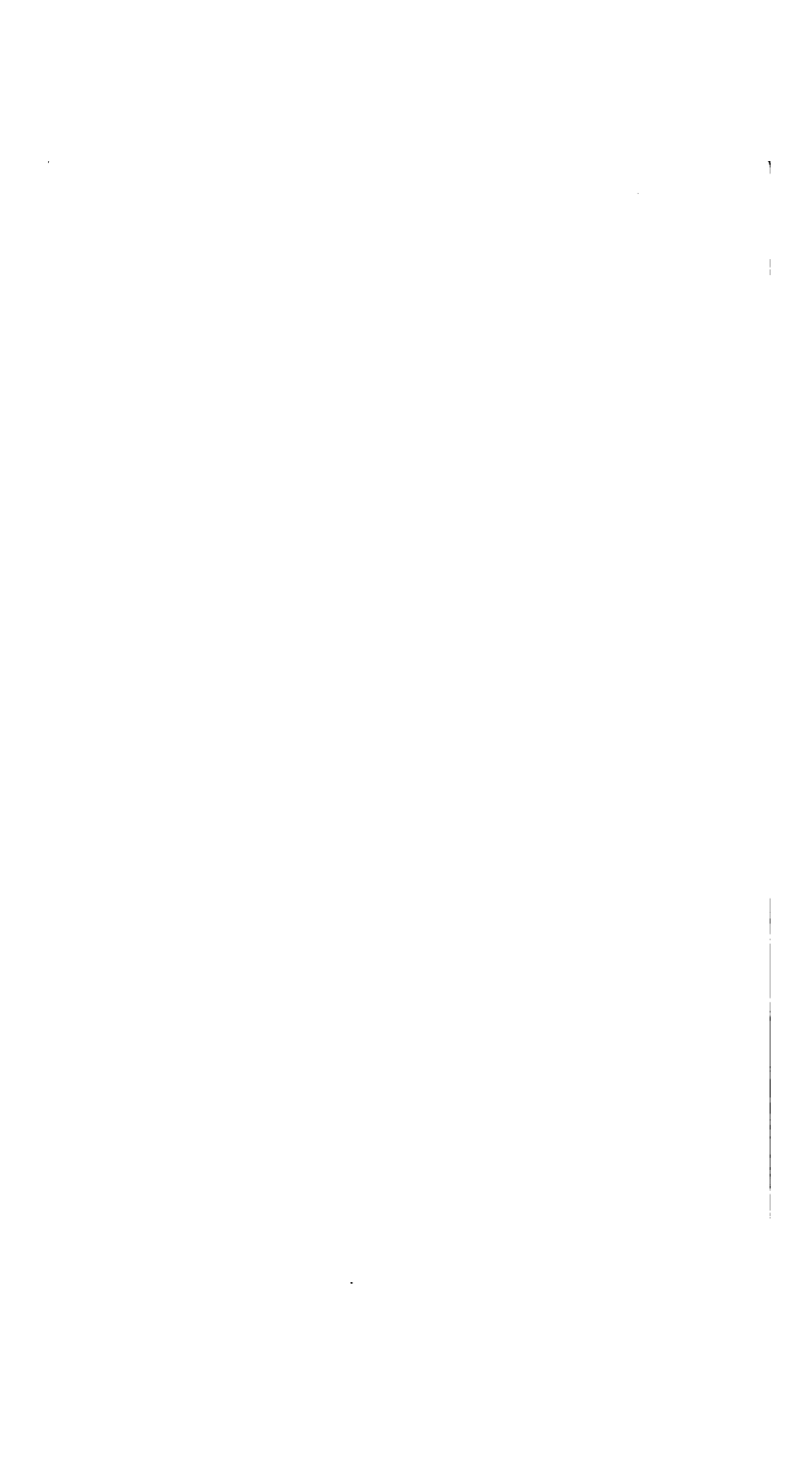
discovered, he shall be deemed to have been duly enlisted, attested, or re-engaged ; and if three months have not elapsed before the error is discovered and the soldier claims his discharge in consequence of such error or illegality, his position as a soldier shall not be affected by the fact until he is actually discharged.

Q. 121.—How would it affect the case of a soldier liable to punishment for an offence, if before or during the term of his punishment any illegality in his engagement were discovered ?

A.—His liability to the punishment would remain the same.

Q. 122.—If a person, after having received pay as a soldier, should prove not to be attested, or re-engaged, is he to be at once discharged ? (97.)

A.—He may claim his discharge, but until he receives it he shall be subject to military law.



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